

November 17, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0400425**

RAYMOND and LEANNA BRICKER

Code Enforcement Appeal

Location: 9656 – 26th Avenue Southwest, Seattle

Appellant: **Raymond and LeAnna Bricker**

9656 – 26th Avenue Southwest
Seattle, WA 98106

Telephone: (206) 767-6176

Facsimile: (206) 448-0290

King County: Department of Development and Environmental Services

represented by **Sheryl Lux**

900 Oakesdale Avenue Southwest

Renton, Washington 98055-1219

Telephone: (206) 205-1525

Facsimile: (206) 296-6604

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:

Deny appeal

Department's Final Recommendation:

Deny appeal

Examiner's Decision:

Deny appeal and extend date for compliance to March 20, 2005

ISSUES/TOPICS ADDRESSED:

- Temporary storage unit;
- construction trailer;
- temporary installation of factory-built commercial structures and commercial coaches;
- setbacks.

SUMMARY OF DECISION:

Code enforcement notice and order is affirmed with extension of time granted.

EXAMINER PROCEEDINGS:

Hearing Opened: November 15, 2004
Hearing Closed: November 15, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. On October 4, 2004, the King County Department of Development and Environmental Services issued a notice of King County code violation; civil penalty order; abatement order; notice of lien; duty to notify ("notice and order") to Raymond and Leanna Bricker. The property subject to the notice and order is located at 9656 – 26th Avenue Southwest in unincorporated King County. Raymond and Leanna Bricker are the owners of the subject property.
2. The notice and order alleged violations of the King County Code, as specifically set forth in the notice and order. The substance of the alleged violations is the placement on the subject property of a trailer in excess of 200 square feet without required permits and within the five foot minimum interior lot line setback.
3. A timely appeal of the notice and order was filed by Raymond and Leanna Bricker on October 18, 2004. The statement of appeal requests an extension of time to obtain building permits for a garage and/or house on the subject property, after the construction of which the trailer would be removed.
4. The trailer on the subject property is approximately 12 feet wide, 60 feet long and 12 feet high. It has been placed within five feet of the rear (east) property line of the Appellants' property. The trailer is used for commercial storage of items from a business previously operated by the Appellants. It was placed on the subject property in December 2004, without a building permit.
5. King County Code Section 16.02.110 adopts the International Building Code which requires building permits for all construction that is not exempt under the provisions of the code. KCC 16.02.240 exempts from the requirement for a permit residential accessory buildings used as tool and storage sheds and similar uses, provided that the floor area does not exceed 200 square feet. KCC 16.02.240.1. The floor area of the trailer placed on the subject property is approximately 720 square feet.

6. KCC 16.04.970 provides that factory-built commercial structures and commercial coaches may be installed only with a permit. The temporary installation of factory-built commercial structures and commercial coaches may be permitted for certain purposes, such as a construction office, for a period not to exceed one year. KCC 16.04.970.B.1.3. The placement of a 720 square foot trailer on the subject property for temporary or permanent use as a storage facility is not permitted in the R-6 zone classification.
7. The adjacent property to the east of the subject property is approximately 60 feet wide (north-south dimension). The 12 foot high trailer which is located at the east property line of the Appellants' property creates a shadow from westerly sunlight onto the adjacent property, is the dominant feature seen from the neighbor's back yard and is a blight on the neighbor's property.
8. Movement of the trailer from the subject property during a period of very wet ground conditions would be difficult and could present hazards to the environment and existing improvements on the Appellants' property. The adjacent property owner stated that she would be reasonably satisfied by removal of the trailer not later than March 2005. The DDES representative indicated that late March of 2005 would, under normal circumstances, provide weather and ground conditions under which the trailer could be removed without undue danger of environmental or property damage.

CONCLUSIONS:

1. The placement of the 12-foot by 60-foot trailer on the subject property, without permit and within the required setback from the east property line, is in violation of the King County Code and International Building Code, as adopted by King County.
2. The use of the trailer placed on the subject property for commercial storage is not a permitted use in the R-6 zone classification, and is a violation of the King County Code.
3. The Appellants should be permitted a reasonable period of time, until not later than March 20, 2005, to remove the commercial trailer from the subject property. Failure to accomplish its removal by that date should subject the Appellants to the penalty set forth in the notice and order issued October 4, 2004, in the amount of \$50.00 per day for the first 30 days of continuing violation, and \$100.00 per day thereafter, plus any costs of enforcement that exceed the amount of the said penalties. The penalties should accrue from March 21, 2005.
4. In the event unusual weather conditions prevail between the present time and March 20, 2005, so that the trailer cannot safely be removed from the subject property without hazard to the environment and improvements on the Appellants' property on or before March 20, 2005, the Department of Development and Environmental Services should recommend to the Hearing Examiner an extension of time not longer than that which is absolutely necessary to allow for the safe removal of the trailer. If an extension of time is approved by the Hearing Examiner, penalties should not accrue during the period of any such extension.

DECISION:

The appeal of Raymond and Leanna Bricker from the notice and order issued October 4, 2004, is DENIED, provided, however, that the period of time to comply with the notice and order by removing the trailer from the subject property is extended to March 20, 2005. Failure to remove the trailer by the said date shall subject the Appellants to the penalties set forth in the notice and order, with the accrual of the said penalties to commence on March 21, 2005.

In the event unusual weather and ground conditions prevail between the date of this order and March 20, 2005, so that in the opinion of DDES the trailer cannot be removed from the subject property on or before March 20, 2005, without undue danger to the environment and improvements on the subject property, DDES may recommend to the Hearing Examiner that this decision be modified to provide an additional period of time to accomplish safe removal of the trailer from the subject property. Any such extension shall be for the minimum period necessary to accomplish safe removal in light of weather and ground conditions that then exist.

ORDERED this 17th day of November, 2004.

James N. O'Connor
King County Hearing Examiner *pro tem*

TRANSMITTED via certified mail this 17th day of November, 2004, to the following:

Raymond & LeAnna Bricker
9656 - 26th Ave. SW
Seattle WA 98106

TRANSMITTED this 17th day of November, 2004, to the following parties and interested persons of record:

Raymond & LeAnna Bricker
9656 - 26th Ave. SW
Seattle WA 98106

Elizabeth Deraitus
DDES/LUSD
Code Enf. Supvr.
MS OAK-DE-0100

Karen Therese
9651 - 25th Ave. SW
Seattle WA 98106

Sheryl Lux
DDES/LUSD
Code Enforcement
MS OAK-DE-0100

Suzanne Chan
DDES, Code Enf.
MS OAK-DE-0100

Patricia Malone
DDES/LUSD
Code Enf. Section
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE NOVEMBER 15, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0400425.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Sheryl Lux, representing the Department; Raymond and LeAnna Bricker, the Appellants; and Karen Therese.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES staff report for 11/15/04
- Exhibit No. 2 Copy of Notice and Order, issued 10/04/04
- Exhibit No. 3 Copy of Notice and Statement of Appeal, received 10/18/04
- Exhibit No. 4 Copies of codes cited in the Notice and Order
- Exhibit No. 5a Copy of 2002 aerial photo of subject property from King County GIS and
 - b 1999 aerial photo from the City of Seattle GIS, with the trailer location indicated
- Exhibit No. 6 Photographs (9 color copies on 4 pages) of subject property and trailer interior
- Exhibit No. 7a Photographs (7 black and white copies) submitted by Appellant.
 - b Pre-survey notes, electrical work permit application, and construction permit
 - c Correspondence – 5/26/04 letter from Officer Lux and 5/27/04 letter from Raymond Bricker